

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ASUS COMPUTER INT'L, et al.,

Plaintiffs,

v.

EXOTABLET LTD.,

Defendant.

No. C 14-1743 PJH

**ORDER DENYING MOTION TO  
ENLARGE TIME AND FOR  
EXPEDITED DISCOVERY**

Before the court is plaintiffs' motion to enlarge time for hearing and briefing for defendant's motion for preliminary injunction, and for expedited discovery, filed on May 23, 2014. Defendant filed an opposition to the motion on May 27, 2014.

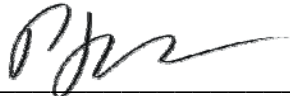
As an initial matter, the court notes that any discovery related to the accused infringing product would lie with the accused infringer – and in this declaratory judgment case, plaintiffs are the accused infringers. Thus, the court does not see how plaintiffs would need additional time to obtain discovery which is already in their own possession, and thus DENIES plaintiffs' motion for expedited discovery.

However, the court does find it reasonably likely that claim construction proceedings may need to be conducted before defendant's motion for preliminary injunction may be resolved. Defendant represents that "no formal claim construction is necessary because the claims of the [patent-in-suit] use simple, clear terms that should all be accorded their plain and ordinary meaning," but the court will be unable to evaluate the merits of that representation until after plaintiffs have filed their opposition to the preliminary injunction motion. If, indeed, plaintiffs' opposition raises claim construction disputes that must be resolved before resolution of the preliminary injunction motion, the court may, at that time,

1 continue the briefing and hearing schedule to allow abbreviated claim construction  
2 proceedings. Thus, while plaintiffs' motion to enlarge time is DENIED at this time, the court  
3 will revisit the issue after plaintiffs' opposition brief is filed, at which time any claim  
4 construction disputes will be properly identified.

5 **IT IS SO ORDERED.**

6 Dated: May 29, 2014

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9 PHYLLIS J. HAMILTON  
10 United States District Judge  
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